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9 Mortgage Company

10 Hon. Marc. L. Barreca  
11 Chapter: 13  
12 Location: Judge Barreca's Courtroom, Room  
13 7106, 700 Stewart St., Seattle, WA 98101  
14 Hearing Date: 10/07/10  
15 Hearing Time: 9:30 a.m.  
16 Response Date: 09/30/10

17  
18 **UNITED STATES BANKRUPTCY COURT**  
19 **FOR THE WESTERN DISTRICT OF WASHINGTON**  
20 **AT SEATTLE**

21 In re:  
22 MALAIA PANAGIOTIS BALINBIN,  
23 Debtor.

24 No.: 10-17927-MLB

25 **CREDITOR CITIFINANCIAL**  
26 **MORTGAGE COMPANY'S**  
27 **OBJECTION TO CONFIRMATION OF**  
28 **THE DEBTOR'S CHAPTER 13 PLAN**

29 Secured creditor CitiFinancial Mortgage Company (hereinafter "CitiFinancial")  
30 objects to confirmation of the Debtor's Proposed Chapter 13 Plan on the following grounds:

31 **I. BACKGROUND**

32 On July 8, 2010, the Debtor filed this Petition for Relief under Chapter 13 of the US  
33 Bankruptcy Code. This is the third such filing in this Court. The Debtor filed two previous  
34 Chapter 13 Plans under Case No. 06-12261-PHB and 09-10466-PHB, which were dismissed  
35 on July 10, 2008 and April 29, 2009 respectively on the Chapter 13 Trustee's Motion  
36 because of significantly delinquent plan payments.

37 In the third case, the Debtor's Chapter 13 Plan dated July 8, 2010 is concerning. It  
38 proposes monthly plan payments of \$3,365.08 from a source that is still undisclosed on the  
39 schedules.

40 The Debtor's current Schedule I omits how long she has been self-employed. The  
41 Debtor's Schedule I in the second filing revealed that she has been self-employed for the  
42

1 prior two and one-half years, including the period of time she was in the first Chapter 13.  
2 However, the Debtor testified at the 341 meeting that she has been self employed since 1995  
3 when she formed an LLC. The LLC is also undisclosed. Nothing in her Schedules or  
4 Statement of Financial Affairs reveals that she is any better able to comply with the third  
5 Chapter 13 Plan than the first two. Moreover, during the 341 meeting it was apparent that  
6 the debtor's schedules and statement of financial affairs were so inaccurate, because of  
7 numerous omissions and misstatements, that they were an unreliable indicator of her  
8 financial situation as of the date of filing. The trustee's office directed the debtor to  
9 produce documents and amend her schedules and statement of financial affairs. The chapter  
10 13 office confirmed last week that no documents had been received and no amendments had  
11 been filed or proposed.

12                   **II.       OBJECTION**

13                   CitiFinancial objects to confirmation on the grounds that the Debtor's Chapter 13  
14 Plan is not feasible under §1322 and §1325. The plan is filed in bad faith and it appears that  
15 the case, similarly, was filed in bad faith and without any intention of completion similar to  
16 the last two filings.

17                   The Debtor's Chapter 13 Plan fails to provide for CitiFinancial's arrearage and  
18 similarly fails to adequately protect CitiFinancial's collateral over the life of the Plan. The  
19 arrearage's grossly understated and the debtor has admitted that she has not paid real  
20 property taxes, insurance and has failed to make any monthly payments to CitiFinancial for  
21 years. CitiFinancial initiated foreclosure proceedings which prompted this chapter 13 filing.

22                   The Debtor's Chapter 13 Plan fails to provide for the correct pre-petition  
23 delinquencies owed to CitiFinancial. The Debtor owes CitiFinancial \$ 91,167.96 in pre-  
24 petition arrearages as of the date of filing. CitiFinancial filed a timely proof of claim with  
25 these amounts. The Debtor's Plan proposes to pay only \$45,034.08 in arrearages to

- 1 CitiFinancial. The Plan makes no provision for the remaining arrearages owed and the
- 2 Debtor's income is insufficient for the payment of the arrearage.

3 The Debtor has further failed to provide for payment of the pre-petition real property  
4 tax delinquencies and for any payment of the ongoing property taxes. The Debtor has failed  
5 to pay the King County Auditor for real property taxes in the past. Similarly, the Debtor has  
6 not paid for insurance. The Plan makes no provision for payment of these taxes and  
7 insurance and the Debtor's income is insufficient for payment of taxes and insurance.

Finally, the Debtor's Plan is not proposed in good faith. Indeed, the Plan appears to have been filed in bad faith. The Debtor has made no effort to provide CitiFinancial timely payments for years and the Debtor has no better financial ability to comply with this Plan as she did with the previous cases.

Finally, the 341 hearing record will reveal that the Debtors Schedules and Statement of Financial Affairs were grossly deficient and replete with errors and omissions. Despite the Chapter 13 Trustee's request for amended Schedules, none have been filed. Confirmation should be denied and dismissal considered, again, because of the Debtors failure to comply with requests by the Court and/or Trustee.

### III. CONCLUSION

18 For all the foregoing reasons, CitiFinancial Mortgage Company respectfully requests  
19 that confirmation of the Plan be denied.

DATED this 29<sup>th</sup> day of September, 2010.

## BULLIVANT Houser Bailey PC

By /s/ Russell D. Garrett  
Russell D. Garrett, WSBA #18657

Attorneys for Creditor CitiFinancial Mortgage Company

**CERTIFICATE OF MAILING**

2 STATE OF WASHINGTON )  
3 County of Clark )

4 | THE UNDERSIGNED certifies:

5 1. My name is Kimberly Deuker. I am a citizen of the United States, over the  
age of 18 years, and am not a party to this action.

7       2. On September 29, 2010, I caused to be delivered via ECF FILING a copy of  
8 NOTICE AND MOTION FOR HEARING, CREDITOR CITIFINANCIAL MORTGAGE  
COMPANY'S OBJECTION TO CONFIRMATION OF THE DEBTOR'S CHAPTER 13  
PLAN, and PROPOSED ORDER to the following persons:

Jefferson H Coulter, II  
Coulter Martin Smith PLLC  
1741 1st Ave Ste 200  
Seattle, WA 98134

K. Michael Fitzgerald  
TRUSTEE  
600 University St. #2200  
Seattle, WA 98108

I SWEAR UNDER PENALTY OF PERJURY that the foregoing is true and correct to  
the best of my knowledge, information and belief.

/s/ Kimberly Deuker  
Kimberly Deuker